



## DETERMINATION OF SIGNIFICANCE AND REQUEST FOR COMMENTS ON SCOPING

### Description of Proposal

This notice advises the public that the Washington State Department of Natural Resources (DNR) intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS). This proposal will result in the implementation of a long-term conservation strategy for the marbled murrelet (*Branchyramphus marmoratus*) under the 1997 DNR Habitat Conservation Plan for forested state trust lands in the state of Washington.

In addition to State Environmental Policy Act (SEPA) review, the proposal will also be undergoing National Environmental Policy Act (NEPA) review by the United States Fish and Wildlife Service (FWS). A combined NEPA/SEPA document will be prepared with FWS as lead agency.

FWS's action under ESA will be to issue an amendment to DNR's Incidental Take Permit based on the long-term conservation strategy for the marbled murrelet. DNR's action will be the adoption and implementation of a long-term conservation strategy for the marbled murrelet following its approval and permit amendment by FWS.

### Purpose

To develop a long-term conservation strategy for the marbled murrelet on DNR-managed forested trust lands that fulfills DNR's commitment under its 1997 Habitat Conservation Plan, subject to:

1. Providing conservation benefits to the marbled murrelet to the maximum extent practicable (Federal Endangered Species Act, 16 U.S.C. §§ 1531-1544) within the five Westside and the Olympic Experimental State Forest Planning Units, as approved by FWS,
2. Meeting DNR's fiduciary responsibility as defined by law, and
3. Complying with DNR policy and state and federal law.

### Need

The Washington Department of Natural Resources committed in its 1997 Habitat Conservation Plan "to develop a long-term conservation strategy for the habitat of the marbled murrelet that will provide minimization and mitigation for any take of this species" (HCP p. IV.39) in the five Westside and the Olympic Experimental State Forest Planning Units. The plan stated that DNR will,

"help meet the recovery objectives of the US Fish and Wildlife Service, contribute to the conservation efforts of the President's Northwest Forest Plan, and make a significant contribution to maintaining and protecting marbled murrelet

populations in western Washington over the life of the HCP.” (1997 DNR HCP, p. IV.44)

DNR also has a legal fiduciary responsibility to manage state trust lands for the long-term benefit of specific beneficiaries. The strategy must, therefore, meet both the habitat needs of the marbled murrelet and the fiduciary needs of the trust beneficiaries, and be accepted by FWS.

Finally, in order for FWS to approve and for DNR to adopt and implement a strategy, FWS must assess “incidental take” of the species in a Biological Opinion, and issue a revised Incidental Take Permit to DNR.

### **Background Information**

DNR has unique obligations in managing lands for the state of Washington. With the state of Washington as the trustee, the legislature has designated DNR as manager of federal grant, state forest (formerly known as Forest Board), and other lands. The state acquired federal grant lands under the Enabling Act and State Constitution when Washington became a state in 1889. State Forest lands have been acquired over time with tax foreclosures and tax delinquencies, as well as through purchases and gifts or other sources.

The DNR manages approximately 1.4 million acres of timberland in western Washington. The department has a legal duty to produce long-term income for various specific entities, primarily schools and counties, which are trust beneficiaries. It does so in part by using best forest management practice principals.

DNR bears the responsibility of a fiduciary in its management of the trust lands. A trust is a relationship in which one person, the trustee, holds title to property that it must keep or use for the benefit of another. The relationship between the trustee and the beneficiary is a fiduciary relationship, and it requires the trustee to act with strict honesty and candor and solely in the best interests of the beneficiary. As a trust manager, DNR follows the common law duties of a trustee, which include: administering the trust in accordance with the provisions that created it; maintaining undivided loyalty to each of the trusts; managing trust assets prudently; making the trust property productive while recognizing the perpetual nature of the trusts; dealing impartially with the beneficiaries; and reducing the risk of loss to the trusts.

In 1997, DNR signed a multi-species Habitat Conservation Plan with FWS to meet its obligation under the Federal Endangered Species Act to conserve habitat upon which threatened and endangered species depend. This contract with the federal government also added greater certainty to DNR’s ability to manage trust lands for the greatest possible sustainable long-term revenue for those trusts’ beneficiaries.

When the HCP was signed in 1997, managers did not have sufficient information to create a credible long-term conservation strategy for the marbled murrelet given the state of the knowledge about marbled murrelet ecology at that time. In the absence of such information, DNR and FWS built into the HCP agreement a provision for an interim strategy for the conservation of the marbled murrelet to be implemented while a long-term strategy was being completed.

### The Interim Conservation Strategy

In planning and preparing the HCP, DNR acknowledged the incomplete state of our knowledge in proposing an interim conservation strategy for marbled murrelet conservation. The HCP (DNR 1997) explicitly described a stepwise, interim conservation strategy that serves to focus knowledge and conservation measures (pp. IV.39-40). The current strategy being implemented includes provisions to: 1) Defer harvest of timber stands that meet interim structural definitions of habitat; 2) Develop statistical models, for each of six large, watershed-based planning units, that predict the probabilities that DNR-managed forest stands will be used (i.e., "occupied", Evans Mack et al. 2003) by murrelets; 3) Conduct a complete inventory of murrelet use of the stands predicted to contain 95% of the use on DNR-managed land in each planning unit. Defer from harvest those stands within 0.5 miles of occupied sites; 4) Simultaneous with initiating the inventory, release the marginal habitat predicted to contain only 5% of the murrelet use for harvest; 5) Using information developed in the studies summarized above, and other available information, develop and implement a long-term strategy for murrelet conservation for each planning unit.

### Biological Criteria

In 2004, DNR convened a Marbled Murrelet Science Team comprised of university and federal researchers, professional consultants, representatives from US Fish and Wildlife Service and Washington Department of Fish and Wildlife, and DNR staff researchers. The Science Team has developed a deliberate analytical approach to developing a credible, comprehensive and forward-thinking conservation strategy. At the approach's core are the basic biological criteria developed by the Science Team for the long-term conservation strategy. The strategy must include land management practices that allow western Washington forested trust lands to contribute to murrelet populations that are (1) stable or increasing, (2) well-distributed, and (3) resilient. These criteria will be used as the dominant biological drivers for management of DNR lands for the conservation of the marbled murrelet.

### **Objective of the Proposal**

The objective for the marbled murrelet component of the HCP is to "develop a long-term conservation strategy for the habitat of the marbled murrelet that will provide minimization and mitigation for any incidental take of this species" (HCP p. IV.39). It was expected when the HCP was written that the result of DNR's five-step interim process would be a long-term conservation strategy that would include some basic components.

"The long-term conservation strategy developed by DNR would likely include information on the location of occupied sites, the distribution of habitat in each planning unit, current research results, landscape-level analysis and considerations, and the site-specific management plans developed by DNR. The long-term strategy would address such factors as developing habitat where gaps exist, developing or maintaining replacement habitat, and would protect the vast majority of occupied sites. The process should result in a comprehensive, detailed landscape-level plan that would help meet the recovery objectives of the U.S. Fish and Wildlife Service, contribute to the conservation efforts of the President's Northwest Forest Plan, and make a significant contribution to maintaining and protecting marbled murrelet populations in western Washington over the life of the HCP." (HCP p. IV.44)

In four of the six western Washington HCP Planning Units (Straits, OESF, South Coast and Columbia), DNR has substantially completed the first four steps of the interim strategy and are beginning step five in developing the long-term conservation strategy. For the remaining two planning units (North Puget and South Puget), DNR and FWS are considering the simultaneous completion of steps one through four and developing the foundation for a long-term conservation strategy (step five) while continuing the necessary work to assess marbled murrelet habitat requirements in those additional planning units.

**Proponent**

Washington State Department of Natural Resources

**Location of Proposal**

All forested state trust lands within the range of the marbled murrelet in the state of Washington. These include parts of Clallam, Cowlitz, Grays Harbor, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Wahkiakum and Whatcom Counties.

**Lead Agency**

Washington State Department of Natural Resources

**EIS Required**

The lead agency has determined this proposal is likely to have a significant adverse impact on the environment. An environmental impact statement (EIS) is required under RCW 43.21C.030(2)(c) and will be prepared. An environmental checklist or other materials indicating likely environmental impacts can be reviewed at our offices.

**Scoping Notice**

Agencies, affected tribes, and members of the public are invited to comment on the scope of the EIS. You may comment on alternatives, mitigation measures, probable significant adverse impacts, and licenses or other approvals that may be required. The method and deadline for giving us your comments are detailed below.

**The Lead Agency Has Identified the Following for Discussion in the EIS**

The following components of a long-term conservation strategy and environmental impacts analysis have been identified by DNR for consideration. The EIS will analyze the No Action alternative and other reasonable alternatives (to be identified as a result of scoping) that could feasibly attain or approximate the Purpose and Need at a lower environmental cost or decreased level of environmental impact.

Alternatives to be considered in the EIS must substantively meet the following given screening criteria:

1. Biological criteria that contribute to marbled murrelet populations that are stable or increasing, well-distributed, and resilient,
2. 1997 DNR Habitat Conservation Plan conservation objectives and all the responsibilities defined in that agreement,
3. DNR's fiduciary responsibility as defined by law, and
4. All DNR policies, state and federal laws.

The EIS will examine a range of alternatives. The EIS will not assess environmental impacts associated with land management activities on any specific site; rather this programmatic EIS will assess the general impacts associated with the marbled murrelet long-term conservation strategy applied to the greater DNR-managed landscape. The EIS will use the proposed long-term conservation strategy and associated modeled habitat development and timber harvest schedules to examine likely environmental impacts at appropriate spatial scales (e.g. HCP planning unit, landscape, or Watershed Administrative Unit).

#### The “Building Blocks” of Reasonable Alternatives

The major components to be considered in the proposed plan are captured in the following areas:

- **Occupied Sites:** Is it better for DNR to focus its conservation effort on known locations of current murrelet occupancy or on the best potential future occupied areas?
- **Habitat Areas:** Is it best for DNR to disperse its conservation effort over the whole landscape, attempting to meet multiple land management objectives simultaneously, or to concentrate habitat areas in blocks where management can be focused predominantly on marbled murrelets?
- **Silviculture:** In areas managed to achieve marbled murrelet habitat, should DNR attempt (a) no forest management, even if they do not currently meet the definition of habitat, (b) traditional management designed to improve the growth of trees, or (c) more active, innovative silviculture most likely to create habitat structures required by the murrelet in the shortest amount of time?
- **Research and monitoring:** Should a strategy be built around contingencies to be answered by DNR pursuing specific research questions, or should DNR take the best approach possible given current knowledge and adjust the strategy as provided through adaptive management?

#### Environmental Impacts

The EIS will consider probable, significant adverse environmental impacts resulting from the proposed action. The topics included for analysis in the EIS will be informed by public scoping. Proposed impacts identified by DNR for possible analysis in the EIS include:

*Wildlife* (particularly threatened or endangered wildlife including the marbled murrelet)

*Socioeconomics* (related to impacts from changes in revenue flow to beneficiaries)

*Recreation* (particularly related to public access)

*Cumulative effects*

#### **Due Date for Scoping Comments**

All comments on the proposal must be received in writing (via mail, fax or e-mail) and must be received by the DNR SEPA Center by 5 p.m. on October 30, 2006.

**SEPA Contact Person      DNR SEPA Center**

**Address**                      **Washington Department of Natural Resources  
SEPA Center  
Attn: Marbled Murrelet Long-term Conservation Strategy  
P.O. Box 47015  
Olympia, WA 98504-7015**

**Phone**                        **(360) 902-2117**  
**Fax**                            **(360) 902-1789**  
**E-mail**                       **sepacenter@wadnr.gov**

**Public Meetings**

Public Scoping meetings will be held at the following locations and dates:

**September 26 – Forks**

Olympic Natural Resources Center  
1455 South Forks Avenue  
6:30 pm

**September 28 – Mt. Vernon**

Best Western CottonTree Inn and Convention Center  
2300 Market Street  
6:30 pm

**October 4 – South Bend**

Willapa Harbor Community Center  
916 1<sup>st</sup> Street  
6:30 pm

**October 5 – Olympia/Lacey**

Lacey Community Center  
6729 Pacific Avenue SE  
6:30 pm

The meetings will be held in locations accessible to the disabled, meeting American with Disabilities Act (ADA) guidelines. People needing accommodations to attend and participate in public meetings should contact Andrew Hayes (contact information below). In order to allow sufficient time to process requests, please call at least one week before the meeting.

FOR FURTHER INFORMATION ABOUT PUBLIC SCOPING OR THE PROPOSAL, CONTACT: Mark Ostwald (U.S. Fish and Wildlife Service) at (360) 753-9564 (e-mail: mark\_ostwald@fws.gov), or Andrew Hayes (Washington Department of Natural Resources) at (360) 902-1347 (e-mail: andrew.hayes@wadnr.gov).

**Response to Comments**

A joint NEPA/SEPA scoping report will be prepared to synthesize and summarize comments as soon as is practicable following the close of Public Scoping.

**Responsible Official**

Clay Sprague

**Position/Title**

Senior Policy Advisor

**Phone**

(360) 902-1788

**Address**

Washington Department of Natural Resources

SEPA Center

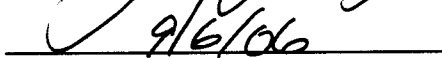
P.O. Box 47001

Olympia, WA 98504-7001

**Signature:**



**Date:**



There is no agency SEPA appeal.